

Executive Summary

This report has been prepared under contract with the Michigan Supreme Court, State Court Administrative (SCAO) to review the Michigan Child Support Formula.¹ The Formula is presumptively used to set the amount of child support for children whose parents are unmarried, separated, or divorced. With 389,400 single parent households in Michigan (2000 Census), the Formula is an important instrument in reducing child poverty, improving the self sufficiency of single parent households, and generally providing for the economic well-being of children in the State. In addition, fair and equitable guidelines help promote voluntary settlement of legal actions involving child support, thereby reducing the demands on court time and mitigating the adversarial impact of such proceedings.

Federal law [42 USC 667] requires that states must review their guidelines at least once every four years. Related regulations [45 CFR 302.56] require states to conduct an assessment of the most recent economic evidence on child-rearing costs and review case data to ensure that deviations from guidelines are limited. Michigan has been more than diligent at fulfilling this Federal requirement. Michigan has a standing committee, that meets several times a year to review its child support guideline, and conducts a case file review once every year. Further, Michigan generally updates the income intervals used in its Formula every year.

Nonetheless, the SCAO is interested in taking a more in-depth look at the Michigan Child Support Formula. The Formula is based on economic estimates of child-rearing expenditures developed in 1984 using 1972-73 data. Although this was the best evidence on child-rearing costs available when the Michigan Formula was developed, there are several new studies on child-rearing expenditures based on more recent data.

- ✓ The major goal of this study is to review more recent evidence on child-rearing costs and determine how the Michigan Formula fares relative to these estimates.

In addition, the study examines other key features of child support guidelines.

- ✓ *Guidelines Models.* Specifically, it examines those used by other states and new guidelines models that have been introduced since the original Michigan Guidelines Committee made its recommendation on guidelines models.
- ✓ *Special Factors.* The Michigan Formula contains adjustments for over a dozen special factors (e.g., low-income noncustodial parents and the child's health care expenses). The provisions for special factors are examined to determine whether they are consistent with

¹ Michigan Friend of the Court Bureau, State Court Administrative Office, *Michigan Child Support Formula Manual 2001*, State of Michigan, Lansing, MI (2001).



the estimates of child-rearing costs and how they fare relative to the practices of other states. This study also examines the methodology for conducting the annual updating of the Formula.

ECONOMIC ESTIMATES OF CHILD-REARING COSTS

Economic Basis of Michigan Formula

As mentioned above, the current Michigan Formula is based on economic estimates of child-rearing expenditures developed in 1984 using 1972-73 data. In 1986, when the Formula was originated, this was the best evidence on child-rearing costs at that time. In fact, it was the same evidence used to develop a prototype schedule for the 1983-87 National Child Support Guidelines Project.² The project was convened through the Federal Office of Child Support Enforcement to fulfill a request by the U.S. House Ways and Means Committee. The purpose of the project was to assist states with responding to a new Federal requirement that states implement statewide child support guidelines. As a result, many states based their original child support guidelines on the same economic evidence on child-rearing costs that the Michigan Formula does.

Methodology Used to Estimate Child-Rearing Costs in Early Study

The estimates of child-rearing costs used by many states to develop their original schedules were developed by Dr. Thomas Espenshade, an economist with the Urban Institute.³ To develop these estimates, Dr. Espenshade used a standard economic methodology, the “Engel estimator,” to separate the child’s share from the parents’ share of total household expenditures. An economic methodology is necessary because many household expenditures are made on behalf of both children and parents (e.g., housing and food), so the child’s share is not readily observable. Essentially, the methodology compares expenditures in two equally well off households: (a) one household with children; and, (b) the other household has no children. The difference in expenditures between the two households is the amount it costs to raise the children.

Updating of Guidelines Formulas and Schedules Since 1987

The Federal deadline for states to implement statewide child support guidelines was in 1987. Since then, over two-thirds of the states (including Michigan) have updated their child support formula or schedule. Michigan uses the original economic estimates of child-rearing costs but updates the income brackets to which it is applied for inflation. The current

² Robert G. Williams, *Development of Guidelines for Child Support Orders, Part II, Final Report*, Report to U.S. Office of Child Support Enforcement, Policy Studies Inc. Denver, CO (March 1987).

³ Thomas J. Espenshade, *Investing in Children: New Estimates of Parental Expenditures* (Washington, D.C.: Urban Institute Press, 1984).

Michigan formula is based on recent price levels (2000) applied to estimates of child-rearing costs developed from 1972-73 data.

In contrast, most states that have updated their schedules use new estimates of child-rearing costs from a more recent study conducted in 1990.⁴ That study was commissioned by the U.S. Department of Health and Human Services at the request of Congress with the explicit purpose of providing more information to states on child-rearing costs in order to help with the review and updating of their formulas and schedules. Subsequently, 19 states base their child support guidelines schedule on this new study, which was conducted by Dr. David Betson, Professor of Economics, University of Notre Dame through the University of Wisconsin at Madison Institute for Research on Poverty. This makes it the most commonly used economic estimates of child-rearing costs in child support guidelines today.

Methodology Used to Estimate Child-Rearing Costs in 1990 Study

Methodologies Used by Dr. Betson. Dr. Betson used five different methodologies to develop his estimates including the same methodology used by Dr. Espenshade to develop his estimates, which formed the basis of many original state child support guidelines. Dr. Betson concluded that another marginal cost approach, “the Rothbarth methodology,” was the most theoretically sound and yielded the most plausible results. Like the Engel estimator, the Rothbarth estimator also measures child-rearing expenditures by comparing expenditures in equally well-off households: (a) one household with children; and, (b) the other household without children. The difference between the Engel and Rothbarth estimators is how they define “equally well-off.” The Engel estimator relies on households with similar expenditures on food shares and the Rothbarth estimator relies on the proportion of household expenditures on adult goods (e.g., adult clothing).

Differences between Dr. Espenshade and Betson’s Results. Dr. Betson’s results from application of the Engel estimator were considerably more than those developed by Dr. Espenshade. The Lewin Group, who reviewed both studies for the U.S. Department of Health and Human Services could not conclude whether the difference resulted from actual changes in child-rearing costs or differences in how the researchers applied the Engel estimator.⁵ As stated earlier, Dr. Espenshade used 1972-73 data and Dr. Betson used 1980-86 data. Both used the Federal Bureau of Labor Statistics Consumer Expenditures Survey data, which is an annual survey of expenditures among several thousands of households.

Conclusions about Estimates. The Lewin Group suggests that the Engel estimator is likely to overstate child-rearing expenditures and the Rothbarth estimator is likely to understate child-

⁴ David M. Betson, *Alternative Estimates of the Cost of Children from the 1980-86 Consumer Expenditure Survey*, Report to U.S. Department of Health and Human Services (Office of the Assistant Secretary for Planning and Evaluation), University of Wisconsin Institute for Research on Poverty (September 1990).

⁵ Lewin/ICF, *Estimates of Expenditures on Children and Child Support Guidelines*, Report to U.S. Department of Health and Human Services (Office of the Assistant Secretary for Planning and Evaluation), Lewin/ICF (October 1990).



rearing expenditures. This is of particular interest in the use of child support guidelines since many states originally developed their schedules from Engel estimates but have switched to those based on the Rothbarth estimates. There are 19 states that currently base their schedules on the Rothbarth estimator and eight states (including Michigan) that currently base their schedules on the Engel estimator. It is not entirely clear what the remaining states base their schedules on.

New Estimates of Child-Rearing Costs

Since 1990, there have been a couple of new studies on child-rearing costs. There is the United States of Department of Agriculture (USDA) study, which is released annually.⁶ In fact, the original Michigan guidelines commission reviewed the 1986 USDA estimates in making its recommendations on what guidelines models to use.

Dr. Betson has also updated his 1990 study, but this time with 1996-98 data.⁷ Again, he developed estimates using the Engel and Rothbarth estimators. Although the estimates had small differences between those developed from the 1980-86 data, there were generally no statistically significant differences. The only exception was a statistical decrease in expenditures on three children in the application of the Engel estimator from 1980-86 to 1996-98 data.

Existing Michigan Formula Compared to New Estimates

Order amounts under the existing Michigan Formula were compared to what the order amounts would be if the Michigan Formula were based on the following economic estimates.

- ✓ Dr. Betson's estimates using the Rothbarth methodology applied to 1980-86 data. These Betson-Rothbarth estimates are the most frequently used by states today.
- ✓ The Betson-Rothbarth estimates developed from 1996-98 data. These estimates were just released last year.
- ✓ Dr. Betson's estimates using the Engel methodology applied to 1996-98 data. The Engel methodology was used by Dr. Espenshade, who developed the estimates that currently underlie the Michigan Formula. The Betson-Engel estimates were also just released last year.
- ✓ The USDA estimates of child-rearing costs.

⁶Mark Lino, *Expenditures on Children by Families: 2000 Annual Report* U.S. Department of Agriculture, Center for Nutrition Policy and Promotion. Miscellaneous Publication No. 1528-2000 (2001).

⁷ Preliminary results are published in David M. Betson, "Parental Expenditures on Children," in *A Review of California's Statewide Uniform Child Support Guideline*, Judicial Council of California, San Francisco, California, (2001). Betson will also eventually publish his results through the Institute of Research on Poverty.

All of the economic estimates were updated to current (2001) price levels. The comparisons assume there are no child care costs and extraordinary medical expenses or health insurance costs. The Michigan amounts include the health care supplement for ordinary medical expenses (e.g., over-the-counter medicines). All of the Betson estimates include ordinary medical expenses. The USDA estimates, however, exclude all medical expenses including ordinary medical expenses.

Generally, the Michigan Formula tracks close to a formula based on the Betson-Rothbarth estimators. The few notable exceptions are at higher incomes and for three children. Order amounts under the Michigan Formula generally track below order amounts based on the Betson-Engel and USDA estimates. In short, the current Michigan Formula tracks within the range of the most recent estimates of child-rearing costs.

GUIDELINES MODEL

Michigan Formula Is Based on Income Shares Model

The costs of child rearing is one consideration in the development of child support guidelines. Another consideration is which child support guidelines model to use. There are several types of models used to calculate child support obligations. There are 33 states that base their child support guidelines on the Income Shares model, which factors in both parents' incomes in the calculation of support. The next commonly used model is the "percentage-of-obligor income model." It is used by 13 states and only requires knowledge of the noncustodial parent's income in the calculation of support.

The original Michigan Guidelines Commission recommended that both parents' incomes be considered in the child support calculation since both parents should be financially responsible for supporting their children.⁸ As a result, Michigan, like most states, uses the Income Shares model. It was developed under the 1983-87 National Child Support Guidelines Project for usage by states and can be described as follows:

The Income Shares model is based on the concept that the child should receive the same proportion of parental income that he or she would have received if the parents lived together. In an intact household, the income of both parents is generally pooled and spent for the benefit of all household members, including any children. A child's portion of such expenditures includes spending for goods used only by the child, such as clothing, and also

⁸ Friend of the Court Bureau, State Court Administrative Office, *Child Support Manual and Schedules, Final Draft*, Submitted to the Friend of the Court Advisory Committee, May 22, 1986.



a share of goods used in common by the family, such as housing, food, household furnishings, and recreation.⁹

Guidelines Models in Bordering States

Most of the states bordering Michigan (i.e., Indiana and Ohio) also use the Income Shares model. However, the support orders based on these states guidelines generally track lower than that of Michigan in part because neither of them have been updated for several years. The third state bordering Michigan (Wisconsin) uses the percentage-of-obligor income model. Support orders under the Michigan Formula generally track below those under the Wisconsin Standard particularly at higher incomes.

New Guidelines Models

In the last several years, states have also begun to consider two new guidelines models although no state has yet adopted them. They include:

- ✓ the “Cost Shares Model”¹⁰, and
- ✓ the model developed by the American Law Institute (ALI).¹¹

In the interest of conducting a thorough review of its Formula, the SCAO also requested that these models be reviewed in this study. The Cost Shares model originates from a child support guidelines model developed by a noncustodial parents’ rights group. The ALI is generally recognized as an organization of legal scholars.

The biggest difference between the Income Shares and Costs Shares model is that the Income Shares model assumes the child should be entitled to the same standard of living the child would receive if the parents lived together. In contrast, the Cost Shares model recognizes that the same standard of living the parents are able to afford when they live together, cannot be achieved when there are two households. The child’s standard of living consequentially is also lowered in the Cost Shares Model. The ALI Model currently exists more as a concept. A well-defined formula and parameters have not been established yet.

⁹ Robert G. Williams, *Development of Guidelines for Child Support Orders, Part II, Final Report*, Report to U.S. Office of Child Support Enforcement, (March 1987) , Policy Studies Inc. Denver, CO. p. II-69.

¹⁰ R. Mark Rogers and Donald J. Bieniewicz, "Child Cost Economics and Litigation Issues: An Introduction to Applying Cost Shares Child Support Guidelines," Paper presented to National Association of Forensic Economics, Southern Economic Association Annual Meeting, Alexandria, Virginia (November 12, 2000). An earlier version of this model appears in a chapter called, “Child Support Guideline Developed by Children’s Rights Council” by Donald J. Bieniewicz in Margaret Campbell Hayes, editor, *Child Support Guidelines: The Next Generation*, A report to the Federal Office of Child Support Enforcement, Center for Children and the Law, American Bar Association, Washington, D.C. (1994). As stated in the preface of *Next Generation*, The Children’s Rights Council model and a chapter representing the Women’s Legal Defense Fund’s view were included as advocacy views to address issues of concerns to custodial and noncustodial parents.

¹¹ Grace Ganz Blumberg, “The American Law Institute’s Treatment of Child Support,” *Family Law Quarterly*, vol. 33, no 1. (Spring 1999).

FACTORS CONSIDERED IN GUIDELINES

The Michigan Formula considers over a dozen special factors. In reviewing them, the following factors were identified as those that could be affected by incorporating new estimates of child-rearing costs or there were other concerns.

- ✓ differences in child-rearing costs due to age of the child;
- ✓ the child's health-related expenses;
- ✓ low-income parents;
- ✓ high-income cases;
- ✓ adjustments for other minor children and stepchildren;
- ✓ adjustments for shared-parenting time; and,
- ✓ the methodology applied annually to update the Formula for changes in the price level.

Age of the Child

The existing Michigan Formula is based on child-rearing expenditures for children age 12-17 years old. Michigan is the only state to do this, although a handful of other states have a formulaic adjustment for older children or provide separate schedules. Nonetheless, the recent economic evidence does not find a statistical difference in child-rearing costs between older and younger children.

Child's Health-Related Expenses

There are three types of child's health-related expenses commonly considered in child support guidelines.

- ✓ The out-of-pocket expense for the health insurance premium.
- ✓ Ordinary medical expenses that are incurred for most children (e.g., band-aids and over-the-counter medicines).
- ✓ Extraordinary medical expenses that are incurred for some children. These are uninsured costs for medical expenses such as eye care, orthodontia, asthma treatments and other expenses.

Most Income Shares Schedules are based on economic estimates of child-rearing expenditures that exclude all of the child's health expenses except ordinary medical expenses.

Health Insurance Premium

The current Michigan Formula subtracts the child's share of the health insurance premium from the net income of the parent who is providing it prior to the calculation of the support order amount. Most states that base their child support schedules on child-rearing



expenditures in intact families treat it as an add-on to base support and apportion it between the parents according to income similar to how Michigan treats extraordinary medical expenses and child care expenses. Prorating the health insurance between the parents is consistent with the estimates of child-rearing costs since they exclude all but ordinary medical expenses.

Ordinary Medical Expenses

The treatment of ordinary medical expenses in the Michigan Formula is unique. No other state has a health care supplement that is added after the calculation of base support. Instead, most Income Shares states incorporate a small amount for ordinary medical expenses in the base support. That way it gets apportioned to the parents according to income along with base support.

Extraordinary Medical Expenses

Unlike many Income Shares states, Michigan does not have a quantitative definition discerning between the child's ordinary and extraordinary medical expenses. For example, many states assume that ordinary medical expenses are those under \$250 per child per year and extraordinary medical expenses are those above \$250 per child per year. The advantage of this distinction is that it reduces the need to track medical receipts less than \$250 per child per year but allows for sharing of excessive ordinary medical expenses.

Medical Child Support Working Group's Recommendations

The 2000 Medical Child Support Working Group's Report to the Secretary of the Department of Health and Human Services made 76 recommendations regarding medical child support.¹² The existing treatment of the child's medical expenses and the alternative treatments discussed in this report are consistent with the Working Group's recommendations pertaining to **how** the child's medical expenses should be included in the calculation of child support. The Michigan Formula, however, may have to be modified if Michigan decides to adopt the Working Group's recommendation as to **when** private health insurance costs are considered reasonable.

Low-income Noncustodial Parents

One of the biggest issues faced by child support guidelines review committees is to how appropriately adjust for low-income parents. Michigan, like most Income Shares states,

¹² The Medical Child Support Working Group *21 Million Children's Health: Our Shared Responsibility*, Report to the Secretary of the Department and Health and Human Services and the Secretary of the Department of Labor. Available at the Federal Office of Child Support Enforcement website: http://www.acf.dhhs.gov/programs/cse/rpt/medrpt/excecutive_summary.htm (June 2000).

provides an adjustment for low-income noncustodial parents, specifically those with incomes below or near the Federal poverty level for one person. Nonetheless, there are some problems with it; namely, it does not always provide work incentives. In some of the regions of the Michigan Formula where the low-income adjustment is being phased out a \$10 increase in the noncustodial parent's net income will result in a \$10 increase in the support order amount.

High-income Cases

The current Michigan Formula is applicable to an infinite amount of income. The same formula applies to net combined incomes of \$1,733 per week as applies to net incomes of \$10,000 per week. The economic data used to estimate child-rearing costs is limited by there being a small sample size of higher incomes. In fact, the most recent Betson estimates only go to parents' combined net incomes of \$125,000 per year. As a result, most Income Shares states do not apply the formula above this income. Instead, many states leave it to court discretion but specify that the order amount shall not be lower than the highest amount appearing in the schedule for the number of children for whom support is being determined.

Adjustments for Other Minor Children and Stepchildren

The Michigan Formula specifies a percentage reduction to income if there are other minor children or stepchildren. The percentage of income reduction for biological or legally adopted children from other relationships living in the parent's household is reduced by a percentage provided by one table in the Formula and the percentage of reduction for stepchildren is provided in another table in the Formula. Both of these tables are derived from base support tables that consider the costs of child rearing.

Adjustments for Shared-parenting Time

The Michigan Formula currently provides two adjustments for shared parenting time:

- ✓ a parenting time abatement which is available if the child spends six consecutive overnights with the noncustodial parent; and,
- ✓ the other is for shared economic responsibility, which is when the child spends at least 128 overnights with both parents per year.

The adjustments are mutually exclusive; that is, one cannot be received on top of the other.

Almost a dozen states have an abatement for extended periods of visitation with the noncustodial parent similar to the provision in the Michigan Formula. About half of the states have an adjustment for shared physical custody. The threshold for applying the adjustment ranges from 20 to 50 percent timesharing. (Michigan's 128 overnights is 35% timesharing). Setting the threshold for the shared-parenting adjustment is a difficult decision



because there is no empirical evidence indicating what the threshold should be. Consequentially, the threshold has been a policy decision in most states. States typically are most concerned about setting a threshold level that discourages gaming; that is, the noncustodial parent seeking more time with the child to reduce the support order amount; and, the custodial parent not wanting to give up time with the child because it would reduce the support order amount.

Method for Annually Updating Guidelines

Michigan is unusual in that it updates the income brackets of its Formula for changes in the price level annually. Only a handful of states engage in any annual updating of their schedules.

When Michigan decided what index to use to update these income brackets, it considered numerous indexes and concluded the Consumer Price Index for the Detroit, Flint and Ann Arbor area was the most appropriate. This study also considers numerous indexes and derives the same conclusion.¹³

RECOMMENDATIONS

Recommendation 1: Update the Michigan Child Support Formula to consider more recent economic estimates of child-rearing expenditures, specifically either the 2001 Betson-Engel or Betson-Rothbarth estimates developed from 1996-98 data and updated to current price levels.

Recommendation 2: Continuously monitor new, alternative child support guidelines models as part of the quadrennial review to ensure that Michigan bases its child support formula on a model aimed at providing the most equitable and just child support orders possible.

Recommendation 3: Abandon a schedule based on child-rearing expenditures for children age 12-17 and adopt a schedule that considers average child-rearing expenditures for children ages 0-17.

Recommendation 4: Prorate the child's share of the health insurance premium to the parents according to income similar to the treatment of the child's extraordinary medical expenses and work-related child care expenses.

Recommendation 5: Incorporate an amount for the children's ordinary medical expenses in the base child support calculation so it is apportioned between the parents.

¹³Professors Edward Montgomery and Ronald L. Tracy, *Cost of Living Update to the Michigan Child Support Guideline Table*, Michigan State University and Oakland University (1988).

Recommendation 6: Clarify the definition of extraordinary medical expenses such that it is based on a quantifiable amount such as medical expenses in excess of \$250 per child per year. Yet, retain some of the language describing what types of medical care would constitute extraordinary medical expenses.

Recommendation 7: Review the Medical Support Working Group's Recommendations to determine whether changes are appropriate and necessary to the Michigan Formula.

Recommendation 8: The Formula Subcommittee should study the issues of low-income parents in more detail and develop a recommendation for a new adjustment for low-income parents that is equitable and fair to both households.

Recommendation 9: High Income. Cap the highest income bracket considered in the formula and use judicial discretion for incomes above that highest income bracket. But, the order amount for incomes above that highest income bracket shall never be lower than the amount calculated based on the highest income considered in the Formula.

Recommendation 10: If the Formula base percentages are changed, the percentage reductions for other children and stepchildren will need to be changed accordingly.

Recommendation 11: The "cubed formula" for adjusting for shared economic responsibility examined by The Michigan Formula Subcommittee should be considered as a alternative to the current formula.

Recommendation 12: Annual Updating method. Continue to use the current updating method.



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